

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

ROBERT HARPER, et ux

CIVIL ACTION NO. 06-1756

VERSUS

DISTRICT JUDGE MAURICE HICKS

USAA INSURANCE AGENCY, Inc.,
et al

MAGISTRATE JUDGE JAMES D. KIRK

Report and Recommendation

Before the court is a Motion to Transfer Venue, Doc. #18, filed by defendants, USAA Insurance Agency, Inc. et al(USAA) referred to me by the district judge for Report ad Recommendation.

Plaintiffs filed suit in Avoyelles Parish Louisiana for the proceeds of a homeowners policy of insurance on property located in New Orleans, Louisiana. Defendants timely and properly removed the case to this court based upon diversity jurisdiction. They now seek to transfer the case to the Eastern District of Louisiana where a similar case between the parties is pending which was removed from state court in New Orleans. Plaintiffs have not responded to the motion.

In the Motion to Transfer, the defendants assert that the policy upon which plaintiffs sue is a Standard Flood Insurance Policy issued by USAA and which is governed by the provisions of federal law. Pursuant to the grant of jurisdiction found at 42 U.S.C. 4072, the proper venue for disputes arising under such policies of flood insurance lies in the federal district court in whose district the property is located. Even though the plaintiffs

filed suit in Avoyelles Parish (and in Orleans Parish), the property is described by plaintiffs in their petition as being located in New Orleans, Louisiana, having been damaged by Hurricane Katrina in 2005.

Because the insured property is located in New Orleans, the proper venue in this case is the Eastern District of Louisiana. The case should be transferred there. Plaintiffs have not opposed the motion.

For the foregoing reasons, IT IS RECOMMENDED that this case be TRANSFERRED to the Eastern District of Louisiana.

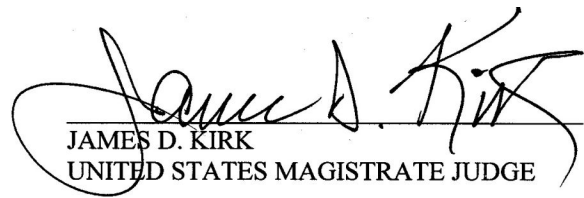
OBJECTIONS

Under the provisions of 28 U.S.C. § 636(b)(1)(C) and Fed.R.Civ.P. 72(b), the parties have ten (10) business days from service of this Report and Recommendation to file specific, written objections with the clerk of court. A party may respond to another party's objections within ten (10) days after being served with a copy thereof. A courtesy copy of any objection or response or request for extension of time shall be furnished to the district judge at the time of filing. Timely objections will be considered by the district judge before he makes his final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT UPON GROUNDS OF PLAIN ERROR, FROM ATTACKING

ON APPEAL THE UN-OBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL
CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.

THUS DONE AND SIGNED in chambers, in Alexandria, Louisiana, on
this the 30th day of January, 2007.



JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE